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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-845]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the Federal Republic of Germany (Germany) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Frances Veith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4295.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this

investigation on May 16, 2017.¹ On September 12, 2017, the Department postponed the preliminary determination of this investigation until November 15, 2017.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum, dated concurrently with, and hereby adopted by this notice, is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is cold-drawn mechanical tubing from Germany. For a complete description of the scope of this investigation *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴

Certain interested parties commented on the scope of the investigation as it appeared in the

¹ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 22491 (May 16, 2017) (*Initiation Notice*).

² See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People's Republic of China, and Switzerland: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 82 FR 42788 (September 12, 2017).

³ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Initiation Notice*, 82 FR at 22492.

Initiation Notice, as well as additional language proposed by the petitioners.⁵ For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices were calculated in accordance with section 772(a) of the Act. Constructed export prices were calculated in accordance with section 772(b) of the Act. Normal value (NV) was calculated in accordance with section 773 of the Act. In addition, pursuant to sections 776(a) and (b) of the Act, the Department has preliminarily relied upon facts otherwise available, with adverse inferences for Mubea Fahrwerksfedern GmbH (Mubea) and Salzgitter Mannesmann Line Pipe GmbH (Salzgitter). Also, for certain BENTELER Steel/Tube GmbH (BENTELER) sales transactions, we preliminarily relied upon facts available pursuant to section 776(a) of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

The Department calculated an individual estimated weighted-average dumping margin for BENTELER, the only individually examined exporter/producer that is participating in this

⁵ ArcelorMittal Tubular Products, Michigan Seamless Tube, LLC, PTC Alliance Corp., Plymouth Tube Co. USA, Webco Industries, Inc., and Zekelman Industries, Inc. (collectively, the petitioners).

⁶ *See* Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People’s Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determination” (Preliminary Scope Decision Memorandum), dated concurrently with this preliminary determination.

investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for BENTELER is the margin assigned to all-other producers and exporters, pursuant to sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act.

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
BENTELER Steel/Tube GmbH/BENTELER Distribution International GmbH ⁷	75.39
Mubea Fahrwerksfedern GmbH	209.06
Salzgitter Mannesmann Line Pipe GmbH	209.06
All-Others	75.39

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others

⁷ The Department preliminarily determines that BENTELER Steel/Tube GmbH and BENTELER Distribution International GmbH are a single entity. *See* Preliminary Decision Memorandum.

rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination with respect to BENTELER. Because mandatory respondents Mubea and Salzgitter did not respond to the Department's questionnaire and the Department preliminarily determined that they failed to cooperate by not acting to the best of their ability, the Department does not intend to conduct verification for these companies.

Public Comment

The Department is setting different deadlines for scope-related case and rebuttal briefs, and case and rebuttal briefs addressing all other issues.

Scope briefs may be submitted to the Assistant Secretary for Enforcement and Compliance no later than five days after the publication of the preliminary AD determinations

for the PRC, Germany, India, Italy, Korea, and Switzerland in the *Federal Register*. Rebuttal scope briefs, limited to issues raised in the scope case briefs, may be submitted no later than three days after the deadline for the scope case briefs. These deadlines, which are based on publication in the *Federal Register* of the preliminary determinations in the AD investigations of cold-drawn mechanical tubing, apply for both the on-going CVD and AD investigations. There is only one briefing schedule for scope case and rebuttal briefs in the CVD and AD investigations. For all scope issues, parties must file separate and identical documents on the records of all of the ongoing CVD and AD cold-drawn mechanical tubing investigations. No new factual information should be included in scope case briefs or rebuttal scope briefs, and no proprietary information should be submitted in the scope case briefs and rebuttal scope briefs.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing on the revised scope, limited to issues raised in the scope case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, separate from the hearing on issues raised in case briefs, within five days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Scope comments may only be included in the scope case brief and scope rebuttal brief. Should this investigation result in an order, interested parties may submit requests for a scope ruling after the issuance of any such order.

Case briefs or other non-scope written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 24, 2017, pursuant to 19 CFR 351.210(e), BENTELER requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.⁹ On November 13, 2017, the petitioners requested that we grant BENTELER's request to extend the deadline for the final determination of this investigation.¹⁰ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, the Department is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, the Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary

⁹ See letter from BENTELER, "Antidumping Duty Investigation of Cold-Drawn Mechanical Tubing from Germany: Request for Postponement of Final Determination and Provisional Measures Period," dated October 24, 2017.

¹⁰ See letter from Petitioners' "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China, Germany, India, Italy, Korea and Switzerland – Petitioners' Comments Regarding Extension of the Final Determination Deadline," date November 13, 2017.

determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: November 15, 2017.

Gary Taverman,

Deputy Assistant Secretary

*for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix I

Scope of the Investigation

The scope of this investigation covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.*, electric resistance welded, continuous welded, etc.) or seamless (*e.g.*, pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

- (1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);
- (2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;
- (3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;
- (4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;
- (5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:
 - (a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2);

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-3, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this investigation when it meets the physical description set forth above.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestruction testing, deburring or chamfering, remains within the scope of this investigation.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the investigation even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A-53;
- ASTM A-106;
- ASTM A-179 (ASME SA 179);
- ASTM A-192 (ASME SA 192);
- ASTM A-209 (ASME SA 209);

- ASTM A-210 (ASME SA 210);
- ASTM A-213 (ASME SA 213);
- ASTM A-334 (ASME SA 334);
- ASTM A-423 (ASME SA 423);
- ASTM A-498;
- ASTM A-496 (ASME SA 496);
- ASTM A-199;
- ASTM A-500;
- ASTM A-556;
- ASTM A-565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of this investigation.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Affiliation/Collapsing
- VI. Discussion of the Methodology
 - A. Determination of the Comparison Method
 - B. Results of the Differential Pricing Analysis
- VII. Date of Sale
- VIII. Product Comparisons
- IX. Export Price and Constructed Export Price
 - A. Export Price
 - B. Constructed Export Price
- X. Normal Value
 - A. Home Market Viability
 - B. Level of Trade
 - C. Cost of Production (COP) Analysis
 - D. Calculation of NV Based on Comparison Market Prices
 - E. Calculation of NV Based on Constructed Value
- XI. Application of Facts Available and Use of Adverse Inference
 - A. Application of Facts Available
 - B. Use of Adverse Inference
 - C. Selection and Corroboration of the AFA Rate
- XII. Currency Conversion
- XIII. Conclusion

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